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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,531	11/21/2001	Dennis L. Montgomery	042503/0273332 (ETV-012-U)	3106
909	7590	06/10/2004	EXAMINER	
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102			ONEILL, MICHAEL W	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/991,531	Applicant(s) MONTGOMERY, DENNIS L.	
	Examiner Michael O'Neill	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Applicant needs to submit a replacement sheet.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The proposed drawing correction of 3-23-04 with respect to the figures is approved by the Examiner. The Applicant is now required to submit a formal replacement sheet in response to this Office action.

Claim Rejections - 35 USC § 102

The rejection of claims 1-31 under 35 U.S.C. § 102(b) as being anticipated by Fishbine et al., USPN 5,781,647 is being maintained and is incorporated herein.

Response to Arguments

Applicant's arguments filed 3-23-04 have been fully considered but they are not persuasive.

The Applicant contends that Fishbine et al. does not anticipate the invention disclosed within the instant application because "the concept of determine chip value in order to determine a dollar amount is not the same as Applicant's invention, which teaches monitoring repetitive actions relating to a game and using the data to count the repetitive actions...". The Examiner respectfully disagrees with the Applicant's analysis of the Fishbine reference. Abet,

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the final outcome of Fishbine is what the Applicant contents above, this is not the structure of Fishbine, which is what is being used to reject the method claims of Applicant's invention because the structure of Fishbine is the same disclosed structure of Applicant. Fishbine discloses at least one video camera (16) set at a fixed position and a fixed zone and focusing on a particular point on a gaming table or similar gaming instrumentality. The video camera is connected to a digitizer (18) which is controlled by a processor system (12) and digitizes the frames of the video signals that are currently being generated by the video camera (16) when commanded by the processor means (12). The digitizer (18) produces a two dimensional arrays of digital pixel values representative of the intensity of the pixel values of the video images captured by video camera (16). Each element which is a pixel value ($PV_{r,c}$) where r is the row value and c is the column value whereby, for example the columns values run 0 to 640 while the row values run 0 to 480. See col. 3:52 through col. 5:28 for a fuller description of ($PV_{r,c}$) and variance value ($VAR_{r,c}$) for the calculation of the variance values to be used in determining the presence or absence of objects in the field of view of the video camera (16). The system generally operates in the following manner. The system has a predetermine set threshold variance

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value, THR. This value is generated by capturing an image of a gaming table with nothing on it but the gaming green felt and appropriate markings. In the disclosure of Fishbine it was determined that this value is at 800, meaning each variance of each pixel of an image of an empty gaming table should be less than or equal to 800. In the preferred embodiment of Fishbine wherever there are chips the value of the variance of those pixel would be above 800. It can be concluded that the more pixels with the variance above 800 would mean that more chips are in that location. Conversely, when there are less pixels with the variance of 800, then there are less chips in that location. When the values are less than or equal to 800 than no chips are present. Because the system is computerized this can be repetitive done and thus it can be determined the amount of chips present at a particular location at any point in time and when no chips are present it can be concluded that a round is over. Because gaming chips are similar to playing cards in that the only difference is the flexibility of the medium that indicia constituting the object is present thereon, one skilled in the art can logically carry the preferred embodiment disclosed in Fishbine to a utilization of playing cards or tiles, e.g. Mah-jongg, dominoes, etc. Further, one skilled in the art could further carry the concept of the preferred

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embodiment to other table games such as roulette and craps. Therefore, the disclosed structure of Fishbine et al. is quite capable of performing the methods claimed because both the Applicant disclosure and Fishbine disclosure disclose the same structure mechanisms, albeit for different preferring reasons and in different preferred language.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 703-308-3484. The examiner

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can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks, Acting SPE can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL O'NEILL
PRIMARY EXAMINER